8594357/2024/PAROLES-HRC-HOM01

GOVERNEMNT OF ANDHRA PRADESH
ABSTRACT

Home (Paroles & HRC) Department – Premature Release – Life Convict Prisoner No.5181 M.Srinivasa Rao @ Vasu S/o M.Sanjeevaiah of Central Prison, Kadapa - Orders of Hon'ble High Court of Andhra Pradesh, dated.04-01-2023 in Writ Petition No.35790 of 2022 – Implemented - Special Remission – Granted - Orders – Issued.

HOME (PAROLES & HRC) DEPARTMENT

G.O.Ms.No.33

Dated:28.02.2024
Read the following:-

1. G.O.Ms.No.91, Home (Paroles & HRC), dt.16.08.2021.
2. G.O.Ms No. 121, Home(Paroles & HRC) Dept., dt.14.08.2022.
3. Orders of the Hon'ble High Court, dt.04.01.2023 in WP No.35790/2022 filed by M.Sanjeevaiah, father of Convict Prisoner No.5181 M.Srinivasa Rao @ Vasu.
4. Opinion of the Learned AG, APHC, dt.07.03.2023 & 29.10.2023.
5. From the DG Prisons and Corre. Services, AP, Mangalagiri, Letter No.RC-2/74/2021, dated.01.05.2023.

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1. The Life convict prisoner No.5181 M.Srinivasa Rao @ Vasu S/o M.Sanjeevaiah was convicted and sentenced to life imprisonment on the file of V Additional District and Sessions Judge, Tirupati as he was involved in commission of a crime U/s 302 IPC and the deceased in this case is a Public Servant.

2. The Government of AP have issued guidelines for grant of special Remission to the life convicted prisoners in G.O.Ms.No.91, Home (Paroles & HRC), dt.16.08.2021., on the occasion of Independence Day,2021. In the said GO, the following condition was stipulated to the male convict prisoners to consider for Remission:

> *"Who have undergone actual sentence of 7 years including the remand period and total sentence of 10 years including remission as on date i.e.,15-08-2021."*

In those guidelines, inter alia, the following **barring clause** was stipulated for not considering for Special Remission:

> *" The Prisoners convicted of murder of public servants while performing duty"*

3. As on 15-08-2021, he has undergone sentence of 10 years 5 months and 9 days. As such, he is eligible as per portion of underwent sentence i.e. 10 years as per aforesaid GO, but his name was not proposed by the Jail Authorities for remission in terms of aforesaid barring clause.

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4. Aggrieved with the above, Sri M.Sanjeevaiah F/o life Convicted Prisoner No.5181 M.Srinivasa Rao, has filed WP No.35790 of 2022 before Hon'ble High Court of Andhra Pradesh praying for grant of special remission to Life Convict Prisoner No.5181 M.Srinivasa Rao @ Vasu S/o M.Sanjeevaiah, Central Prison, Kadapa in terms of guidelines prescribed in G.O.Ms.No.91, Home (Paroles) Dept., dt:16-08-2021.

5. The Hon'ble High Court of AP in its orders dated 04-01-2023 in WP No.35790 of 2022, directed to reconsider the case of the petitioner for grant of special remission "without reference to the prohibition contained in Sub clause XV of Category II of clause 8 of G.O.Ms.No.91, Home (Paroles & HRC) Department, dated 16.08.2021" to Life Convict Prisoner No.5181 M.Srinivasa Rao @ Vasu. The relevant portion of the orders as contained at paras (11), (12) & (13) in the Judgment are extracted hereunder:

> *"11. The deceased was murdered while he was going to his place of work. He was not performing any duty. He was murdered on account of the suspicion of the son of the petitioner that the deceased was in an illicit relationship with his wife. In the circumstances, the cause of the death or homicide was not on account of any duty performed by the deceased as a public servant nor was he killed while he was performing any duty as a public servant.*
>
> *12. In the circumstances, sub clause 15 of category II in clause 8 would not be applicable to the case of the son of the petitioner,*
>
> *13. In that view of the matter, this writ petition is allowed directing the respondents 1,3 & 4 to reconsider the case of the petitioner without reference to the prohibition contained in Sub clause XV of Category II of clause 8 of G.O.Ms.No.91, Home (Paroles & HRC) Department, dated 16.08.2021. The said exercise shall be conducted within a period of two months from the date of receipt of this order. There shall be no order as to costs."*

6. The Opinion of Learned Advocate General has been sought on the aforesaid orders of Hon'ble High Court. The Learned Advocate General vide letter date 07-03-2023, opined that the Hon'ble High Court concluded that the offence committed by the accused was not in respect of a public duty nor was the offence in connection with any of the duties performed by the public servant by virtue of office in discharge of his official functions. Therefore, he advised to implement the orders of Hon'ble High Court and the Learned Advocate General vide his Letter dated.29.10.2023 has reconfirmed his earlier opinion.

7. Accordingly, the Standing Committee has examined the case of life Convicted Prisoner No.5181,M. Srinivasa Rao @ Vasu S/o M.Sanjeevaiah, Central Prison, Kadapa and recommended for grant of special remission.

8. The Government after careful examination of the matter, hereby grant Special Remission under Article 161 of Constitution of India, read with Section 432 of the Code of Criminal Procedure, 1973,(Central Act 2 of 1974) to life Convicted Prisoner No.5181,M.Srinivasa Rao @ Vasu S/o M.Sanjeevaiah, Central

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Prison, Kadapa in terms of the guidelines issued in G.O.Ms.No.91, Home (Paroles & HRC) Department, dated 16.08.2021 without reference to the prohibition clause contained in Sub clause XV of Category II of clause 8 of G.O.Ms.No.91, dated 16.08.2021 to comply with the orders of High Court of Andhra Pradesh, dated 04-01-2023 in W.P.No.35790 of 2022, subject to the following three conditions for his release:

a) Premature release under this G.O. shall be subject to execution of a Personal Bond of Rs. 50,000/- (Rupees Fifty thousand only).

b) The prisoner after release shall appear before the Probation Officer and Police Station concerned once in (3) months till the completion of unexpired portion of sentence.

c) Re-arrest of the released prisoner, on cancellation of the remission granted under this G.O. in case he commits any criminal offence.

9. The Director General of Prisons & Correctional Services, AP, shall take necessary action for release of the said prisoner, duly obtaining the personal bond as prescribed in the Annexure appended to this order.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

HARISH KUMAR GUPTA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director General of Prisons & Correctional Services, AP, Mangalagiri.
The Superintendent of Jails, Central Prison, Kadapa.
The Petitioner, M.Sanjeevaiah through the Superintendent of Jails, Central Prison, Kadapa.

Copy To:
The Learned Advocate General, AP.
The GP for Home Dept., High Court of AP.
(with a request to place a copy of this order before the Hon'ble High Court in WP No.35790 of 2022).
The PS to Chief Secretary to Government.
The OSD to Minister for Home & DM,
The PS to Principal Secretary to Home Department.
SF/SC.

// FORWARDED :: BY ORDER //

P. Trothe
SECTION OFFICER